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Your Home Is Our Business

March 7, 2011

To: Senator Ed Meyer and Representative Richard Roy, Co-Chairs, and members of the Environment Committee

From: Bill Ethier, Chief Executive Officer

Re: HB 5526, AAC Commercial or Residential Projects on Property That Contains Certain Woodlands

The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.

We strongly oppose HB 5526 as an unnecessary new permitting program controlling the use of land, because it contains undefined and wholly open-ended new permitting requirements without any real limitations on DEP's authority, and because this bill is intended to stop a specific affordable housing appeals application that, to the best of our information, has already been denied an inland wetlands permit and, therefore, cannot be built.

The last thing our feeble economic and housing recovery needs right now is another permitting program controlling the use of land. Our existing system of land use controls through local planning, zoning, inland wetlands, water pollution controls, design review, historic preservation review, restrictions on steep slopes, ridgelines, agricultural lands, and so much more, plus numerous state agency permits and approvals are abundantly protective of our land and water resources.

Moreover, CT is not at risk of losing its woodlands. CT's forest cover is very high, amounting to 55% to 60% of the entire state.

The standards of the new permit authorized by this bill are vague and open-ended, which can lead only to abuse, misunderstandings, and more uncertainty, delays and costs for economic and housing development. What does "undeveloped woodlands" mean? Would an abandoned cabin in the middle of a 200 woodland acre tract disqualify it from the definition? Would a buried tank or soil or water contamination from some long-gone facility or farm disqualify the parcel from the definition? What is to be included in, or meant by, a "statement of the environmental compatibility ... with the nature of such woodlands and all neighboring properties?" How does an applicant submit credible evidence to justify a "statement to the commissioner indicating why such parcel is the

most suitable parcel for such development project?" How many other sites does the applicant have to consider in order to perform this analysis? How can the applicant get control over other sites to conduct a suitable investigation to support such analysis? What does "prior to conducting any work on such development" mean? How does the applicant put together the new required statements if soil, wetlands, engineering, other testing and analysis – all work on a development – cannot first be conducted? This proposal would be a permitting nightmare. We are, frankly, amazed it has been given a hearing before this committee.

The genesis of this bill is a proposed affordable housing appeals act, sec. 8-30g, development in the town of Orange. The "compatibility with neighboring properties" language would result in an end-run around the requirements of this housing policy. We understand the town and the landowner are negotiating a price to buy the woodlands involved as open space. Whatever "pressure" the landowner thinks will be or could be put on the town by filing an 8-30g application, we first suggest the town should call the landowner's bluff and approve the application. It's very likely the development will never be built if that is not the real intention of the landowner. In any event, we have been told the development proposal was denied an inland wetland permit, which cannot be challenged on the basis on sec. 8-30g's housing policy. More importantly, creating a new permitting program is not the way to address any perceived flaws in sec. 8-30g.

Please do not pursue this legislation. Thank you for the opportunity to comment